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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/516,376
Filing Date: November 30, 2004
Appellant(s): GEGNER ET AL.

Thomas Kocovsky, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 7, 2009 appealing from the Office

action mailed June 8, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 1, 5, 8, 10-15, 20 and 27-28 are cancelled.

Claims 2, 3, 7, 19, 22-26, 30 and 31 are rejected.

Claims 4, 6, 9, 16-18, 21 and 29 are allowed.

Claims 2, 3, 7, 19, 22-26, 30 and 31 are appealed.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is

correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,111,573	MCCOMB	8-2000
6,707,476	HOCHSTEDLER	3-2004
2003/0210281	ELLIS	11-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 3, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by

David McComb et al, US 6,111,573, 2000.

As per independent claim 3, McComb discloses optimizing the presentation on a display

screen of objects of a user interface (Fig. 8) which can be freely positioned and scaled

(col. 7, II. 10-15; col. 9, II. 61-65) by means of control elements by means of a

predetermined calculation rule (i.e. layout rule) in such a manner that the objects can be

automatically changed, in dependence on the object contents (col. 7, II. 10-21; col. 10,II.

12-14), selected preferred settings (col. 9,II. 15-24) and available display resource on

the display screen (col. 9, II. 62-66), between a minimum readable size and a selected

maximum size in such a manner that optimum filling of the available display screen

surface is achieved (col. 10, II. 13-20, 35-40; col. 11, II. 55-65), while suppressing less

important details of the object contents (col. 10, II. 12-14, 20-24) and while changing the

mode of display of the object contents and/or the object (col. 5, II. 35-40; col. 9, II. 25-

40) as well as while avoiding mutual overlapping of the objects, wherein the objects are

ordered in a hierarchy (col. 10, II. 17-24), an ordering of the hierarchy of combined

objects can be changed (i.e. removing low priority graphic components) (col. 10, II. 20-

25).

As per claim 25, McComb discloses designating an object (i.e. objects automatically

designated on an object by object basis) (col. 7, II. 11-19; col. 8, II. 19-21; col. 9, II. 53-

55); enlarging the designated object (col. 9, II. 54-56); resizing the other objects to avoid

overlapping without reducing the other objects below the minimum readable size (col.

10, II. 24-39).

As per claim 26, McComb discloses suppressing detail in the other objects to maintain

the minimum readable size (col. 10, II. 12-50; col. 9, II. 53-58).

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

3.   Claim 2, 22 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by

R. Hochstedler, US 6,707,476, 2004.

As per independent claim 22, discloses generating a plurality of objects (Fig. 2), each

object containing the patient monitoring information from a medical measuring device

(col. 3, ll. 25-35); positioning and scaling the objects in a group using a calculation rule

(i.e. automatic switching of the layout to change the display of the control elements)

(col. 1, ll. 55-67) in such a manner that the objects are automatically changeable (col. 1,

ll. 55-67) in dependence on object contents (col. 1, ll. 55-58), selected settings (col. 1,

ll. 40-45) and available display resources on a display screen while avoiding

overlapping objects (Fig. 2); in response to one of the objects ceasing to contain

relevant patient monitoring information, automatically, without user intervention,

substituting another object (col. 5, ll. 20-30; 50-65) and repositioning and rescaling the

displayed objects using the calculation rule (col. 4, ll. 4-11; col. 5, ll. 23-27).

As per dependent claim 2, Hochstedler discloses the objects are arranged within a fixed

hierarchy (i.e. objects are weighted where the weighted objects have a priority) (col. 7,

ll. 5-10; col. 6, ll. 54-55) in order to enable substitution (i.e. suppression) of objects,

based on relative (i.e. interpreted as the lowest) hierarchical level (i.e. weight/priority is

used in switching the layout of objects that no longer provide data, e.g. subtracted

sensor or suppressed sensor data) (col. 7, ll. 40-45; col. 5, ll. 25-30).

As per independent claim 31, Hochstedler discloses a display screen (Fig. 2); an

interface which receives dynamically varying patient data and displays the patient data

in objects on the display screen (fig. 2; col. 1, ll. 15-35), the interface implementing a

calculation rule to: implement the method as claimed in claim 22. The rationale as

applied in the rejection of claim 22 applies herein.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 7, 24 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable

over David McComb et al, US 6,111,573, 2000, and further in view of R. Hochstedler,

US 6,707,476, 2004.

As per dependent claim 7, McComb discloses the presentation on a display screen of

objects of a user interface (Fig. 8) which can be freely positioned and scaled (col. 7, ll.

10-15; col. 9, ll. 61-65) by means of control elements by means of a predetermined

calculation rule (i.e. layout rule) in such a manner that the objects can be automatically

changed, in dependence on the object contents (col. 7, ll. 10-21; col. 10,ll. 12-14),

selected preferred settings (col. 9,ll. 15-24) and available display resource on the

display screen (col. 9, ll. 62-66), between a minimum readable size and a selected

maximum size in such a manner that optimum filling of the available window, e.g.

object, is achieved (col. 10, ll. 13-20, 35-40; col. 11, ll. 55-65), while suppressing less

important details of the object contents (col. 10, ll. 12-14, 20-24) and while changing the

mode of display of the object contents and/or the object (col. 5, ll. 35-40; col. 9, ll. 25-

40) as well as while avoiding mutual overlapping of the objects wherein the contents of

an object contain graphic information (col. 4, ll. 12-16) commands and various options

for processing/manipulation (fig. 5; col. 10, ll. 25-35) wherein the objects can temporarily

be displayed in enlarged form (col. 4, ll. 53-57; col. 5, ll. 2-10).

McComb fails to disclose optimally filling the available display screen surface and

wherein the contents of an object contain static information as well as dynamically

variable information.

Hochstedler discloses wherein the contents of an object contain static information as

well as dynamically variable information (col. 1, ll. 15-35).

McComb also fails to specifically disclose temporarily enlarging objects in dependence

on a given trigger signal which is produced by a control element which is defined by

object selection/object marking, which Hochstedler discloses (col. 1, ll. 12-15; Fig. 2

"42"; col. 3, ll. 60-65).

It would have been obvious to one of ordinary skill in the art to include optimally

filling the available display screen surface with the method of McComb because

McComb discloses a plurality of window regions that can be changed in size and

appearance for arrangement on the display (col. 2, ll. 57-59).

One of ordinary skill in the art would have been motivated to include optimally

filling the available display screen surface with the method of McComb for the benefit of

providing an adaptable windowing system that can efficiently display information.

Additionally, it would have been obvious for one of ordinary skill in the art at the

time of invention to include Hochstedler's disclosure of contents of an object contain

static information as well as dynamically variable information with the method of

McComb because McComb discloses the display processing data from application

programs for presenting information in windows using text and graphics (col. 2, ll. 25-

35), where text and graphics are exemplary of static and dynamic information.

Additionally, it would have been obvious to one of ordinary skill in the art to include

Hochstedler's temporarily enlarging objects in dependence on a given trigger signal

which is produced by a control element which is defined by object selection/object

marking with the method of McComb because McComb discloses a user input device

for communicating information to the display device, and enabling user adjustment of

magnification settings, where settings are known to be received via an input device,

such that the combination of known elements yields predictable results.

One of ordinary in the art would have been motivated to include Hochstedler's disclosure of contents of an object contain static information as well as dynamically variable information with the method of McComb for the benefit of displaying information relative to various types of applications. Additionally, one of ordinary skill in the art would have been motivated to include Hochstedler's temporarily enlarging objects in dependence on a given trigger signal which is produced by a control element which is defined by object selection/object marking with the method of McComb for the benefit of improving user interaction with display objects.

As per claims 24 and 30, McComb discloses objects are windows which display

presentation information such as text (Fig. 1).

McComb fails to disclose the windows contain patient monitoring information, which

Hochstedler discloses (Fig. 2; col. 3, ll. 5-15).

It would have been obvious to one of skill in the art to include Hochstedler's patient

monitoring information with the method of McComb because McComb teaches display

of presentation data of which patient monitoring data is exemplary.

One of ordinary skill in the art would have been motivated to include Hochstedler's

patient monitoring information with the method of McComb for the benefit of displaying

various data of user interest in a known manner.

3.   Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over

McComb as applied to claim 7 above, and further in view of Hochstedler, US 6,707,476,

2004 and Troy Ellis et al, US 2003/0210281, 2003.

As per dependent claim 19, McComb discloses wherein the trigger signal is produced

by a cursor touching one of the objects, such that one of the objects is temporarily

enlarged when it is being touched by the cursor (col. 4, ll. 53-57; col. 5, ll. 2-10) as does

Hochstedler (col. 1, ll. 12-15; Fig. 2 "42"; col. 3, ll. 60-65).

McComb and Hochstedler fail to disclose returning the object to its original size when

the cursor no longer touches the one of the objects, which Ellis discloses (i.e. in a

system for displaying thumbnail images having reduced content, enlarging and reducing

display size of the selected image based on respective cursor positioning on and off the object) (Para 55).

It would have been obvious to one of ordinary skill in the art at the time of invention to include Ellis' returning the object to its original size when the cursor no longer touches the one of the objects with the method of McComb in view of Hochstedler because each discloses display of graphic information within containers displayed together on a display interface that receives input signals via an input device, e.g. mouse, to enable user control of the graphic objects, e.g. containers, within the interface, such that the combination of known elements yields predictable results.

One of ordinary skill in the art would have been motivated to include Ellis' returning the object to its original size when the cursor no longer touches the one of the objects with the method of McComb in view of Hochstedler for the advantage of providing increased user manipulation and display of graphic objects displayed with reduced content.

4.   Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over R. Hochstedler, US 6,707,476, 2004.

As per dependent claim 23, Hochstedler discloses moving the cursor on the display screen using a user input device (col. 3, ll. 55-65); in response to touching an object with the cursor, temporarily enlarging the touched object (col. 1, ll. 12-15; Fig. 2 "42"; col. 3, ll. 60-65).

Hochstedler does not specifically disclose generating a cursor on the display screen.

It would have been obvious to one of ordinary skill in the art to include generating a cursor on the display screen with the method of Hochstedler because Hochstedler discloses selecting control elements using mechanisms such as a pointing device, e.g. mouse. Official Notice is given that pointing device movement is well known to be echoed on the screen by movements of a cursor.

(10) Response to Argument

A.   Claims 3 and 24-26: Applicant argues McComb does not teach optimally filling the display with window objects.

In response, McComb discloses evaluating the contents of each contained object (col. 10, ll. 13-20, 35-40), such that in determining layout of the containers for display on the display screen, each object is evaluated to see if it fills the current display line. Based on the evaluation the layout calculation adjusts the position and scale of the contained objects to fill the available display screen area (col. 11, ll. 55-65). Thus, McComb discloses optimal filling of the display screen surface as he presents a desired or improved display layout and reduces the amount of space on the display. Additionally, it is noted that optimally filling the display does not suggest only displaying information without visible empty spaces which Applicant also notes (Appeal Brief Arguments p. 16, Para 2). Therefore, McComb discloses optimal presentation,

suppressing less important details, changing the mode of display and avoiding mutual

overlapping.

B.   Claim 24: Applicant argues the combined of teachings of Hochstedler and

McComb would not suggest use of patient monitoring information.

In response, McComb teaches manipulating objects in a window, where the

exemplary objects displayed are buttons. McComb also discloses (col. 2, ll. 1-20) the

data presented in a window is variable and dependent upon a task of a specific

application. Hochstedler teaches displaying a layout including components comprising

a plurality of windows having objects, such as a waveform, within a monitoring system.

Thus, use of patient monitoring data is an obvious variant of object data and is specific

to a monitoring application presenting a graphic interface for communicating the data.

C.   Claims 25-26: Applicant argues McComb does not teach enlarging a designated

object nor suppressing detail in other objects to maintain a minimum readable size.

In response, McComb teaches (col. 7-8, ll. 11-22; Fig. 7) a process of dynamic

sizing. The process automatically designates an object and expands an object based

on need, while contracting other objects by suppressing the amount of detail information

the object displays. The result of the process ensures the information displayed is

readable and does not overlap. Therefore, McComb teaches enlarging a designated

object and suppressing details in other objects to maintain a minimum readable size.

D.   Claims 7, 19 and 30: Applicant argues Hochstedler does not teach temporarily displaying an object in enlarged form once selected; and McComb does not disclose suppressing less important details of object contents, changing the mode of display object contents or object, and avoiding mutual overlapping of objects.

In response, Hochstedler (col. 1, ll. 12-15; col. 3, ll. 55-65) teaches a display layout of various components, e.g. a window displaying a waveform. Each component has standard window modification controls enabling size modification of the component. Each component is also manipulated by a pointing device which knowingly operates with a cursor visible on a display screen. Thus, Hochstedler teaches temporarily displaying an object in enlarged form once selected as manipulation of a pointing device to select a control of a window can cause a size modification of the window.

McComb discloses a dynamic sizing process which designates and changes sizing of objects and suppresses less important details while avoiding overlap of objects (Fig. 7; col. 7-8, 11-22). Therefore, McComb teaches suppressing less important details of object contents, changing the mode of display object contents or object, and avoiding mutual overlapping of objects.

E.   Claim 19: Applicant argues Ellis does not teach enlarging an object while avoiding overlap of other display objects.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., enlarging an object **while avoiding overlap of other display objects**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, Ellis' disclosure of enlarging an object once it is selected, suggests the elements as claimed by the Applicant and illustrated in the Applicant's Specification (Fig. 6 "64").

F.   Claims 2, 22 and 23: Applicant argues Hochstedler fails to disclose positioning and scaling objects using a calculation rule…; and substituting another object and repositioning and rescaling the displayed objects when an object ceases to display relevant data.

In response, Hochstedler discloses two types of changes that may occur in the system. A first type relates to a change in the system capabilities (i.e. a modification of the layout) (col. 5, ll. 25-30), which occurs automatically and is based on user settings. Hochstedler discloses the user may specify that the system respond automatically to a change by automatically switching a layout (i.e. Option 2) (col. 5, ll. 41-43, 50-65). An automatic layout switch occurs based on a system evaluation of current or active capabilities, e.g. a calculation rule; and switches a layout to one more suitable for display. Switching a layout positions and scales the objects displaying received data signals, e.g. patient data, into the layout, where the objects displayed are based on user settings, and the layout fills the display with objects without overlap.   Therefore,

Hochstedler discloses positioning and scaling objects... and substituting another object and repositioning and rescaling the displayed objects... as he teaches automatically switching to another layout when the data displayed is no longer desired. Additionally, Applicant's arguments point out that Hochstedler does not change the object displayed when data is no longer displayed by the object. However, Applicant's claim limitation recites "ceases to display relevant data", where the display of relevant data is open to interpretation as it is not limited to the non display of data. Thus, the rejection in view of Hochstedler is maintained.

G.   Claim 2: Applicant argues Hochstedler does not disclose the objects are arranged in a fixed hierarchy to enable substituting objects based on a hierarchical level.

In response, Hochstedler discloses objects are weighted, where the weighted objects have a priority (col. 7, ll. 5-10; col. 6, ll. 54-55). To enable substitution of objects, Hochstedler uses object weight/priority to switch the layout of objects that no longer provide data, e.g. subtracted sensor or suppressed sensor data (col. 7, ll. 40-45; col. 5, ll. 25-30). Thus, Hochstedler teaches objects are arranged in a fixed hierarchy to enable substitution.

H.   Claim 23: Applicant argues Hochstedler does not teach temporarily displaying an object in enlarged form once selected.

In response, Hochstedler (col. 1, ll. 12-15; col. 3, ll. 55-65) teaches a display

layout of various components, e.g. a window displaying a waveform. Each component

has standard window modification controls enabling size modification of the component.

Each component is also manipulated by a pointing device which knowingly operates

with a cursor visible on a display screen. Thus, Hochstedler teaches temporarily

displaying an object in enlarged form once selected as manipulation of a pointing device

to select a control of a window can cause a size modification of the window.

I.   Claim 31: Applicant argues Hochstedler does not teach a calculation rule to

automatically change the contents of an object, the settings, and the available

resources on the display screen.

In response, Applicant's calculation rule is a layout rule. Hochstedler teaches

assessing a plurality of parameters in order to automatically change the layout of the

components, e.g. windows on the display (col. 5, ll. 20-50). Therefore, Hochstedler

teaches a calculation rule as he teaches a change in layout resulting in the substitution,

reposition and rescale of displayed objects.

Additionally, Applicant relates Hochstedler's disclosure of a pop up window to a modified

display format that results in overlay of other display information. Instead, Hochstedler's

pop up window is exemplary of a temporary enlargement of a window and not a

modified display format resulting from an auto change in the layout.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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